

PROCEDURE

EMERGENCY PURCHASES

CAM 3.2.7

DATE: 10/4/99

**A. PURPOSE:**

Current law requires formal sealed bids for all purchases of goods in excess of \$15,000. For Information Technology (IT) goods and services, formal sealed bids are required on acquisitions over \$500,000. The law recognizes, however, that there are situations when purchases without the taking of bids are necessary for the protection of the public health, welfare or safety. There are instances when agencies must make emergency purchases that exceed their delegated purchasing authority.

(For information regarding non-IT emergency services contracts, see the State Contracting Manual sections 3.10 and 3.10.1.)

**Note:** Poor planning is **not** an emergency.

**B. DEFINITIONS:** See Glossary Section for definitions. Any definitions included here are for purposes of this procedure only.

1. **Emergency:** Public Contract Code (PCC) Section 1102 defines an emergency as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.”

Examples:

- a. If there is a mudslide on a highway, caused by a flood, the crew would be justified in making emergency purchases for supplies to clean up the mud. A threat to public safety exists because emergency vehicles could not transport ill or injured citizens over a mud-clogged road.
  - b. If a fire-fighting crew needs food for immediate consumption, an emergency purchase is warranted because the crew is responding to an immediate threat to public property.
  - c. If a supplier does not meet a delivery date, an emergency purchase is NOT warranted unless the delay in the project causes an immediate threat to the public health, welfare, or safety or an immediate threat to public property.
2. **Ratify:** To confirm by expressing consent, approval, or formal sanction; to confirm something done or arranged by an agent or by representatives by such action. The act of ratification has the effect of approving a transaction after the fact, as if it had been properly approved in advance. Therefore, an approving official may only ratify those actions within his or her authority. If the action taken does not comply with law or regulation, ratification is not permitted.

### **C. PROCEDURE:**

1. In the event of an emergency, agencies are directed to contact the Department of General Services, Procurement Division, One-Time Acquisitions Section, prior to the purchase at (916) 375-4400, voice, or fax (916) 375-4613. The caller should be prepared to:
  - a. Describe the emergency.
  - b. Explain why the situation warranted the emergency purchase.
  - c. Explain the consequences of making the acquisition through the normal competitive process.
  - d. Provide a description of the goods and price.
  - e. Provide the names and quotations of other suppliers contacted.
  - f. Provide the name of the intended supplier.
2. Procurement Division (PD) will evaluate the situation, and if the circumstances warrant the purchase, PD will issue an Authorization to Exceed Monetary Limits, Form GSOP 42. At this point a Form 42 number will be given to the caller. The agency may proceed to issue a Contract Delegation Purchase Order, Std. Form 65 to the supplier, ensuring that the Form 42 Number is included in the "Contract/Delegation Number" box.
3. The requesting agency must follow up the verbal authorization by supplying detailed information regarding the purchase in writing to PD within five business days of the verbal authorization.
4. A copy of the Form 42 must be attached to the invoice to ensure payment to the supplier by the State Controller.
5. In the event that it is impossible or impractical to contact PD, agencies may proceed with the purchase on their own initiative without prior approval by PD. They must, however, notify PD within five days of the action taken and describe the circumstances necessitating such action. If PD agrees that the action was necessary, a Form 42 will be issued to the agency. If PD does not concur with the action, a Form 42 will not be issued and the supplier may have to file a claim with the Board of Control to obtain payment.
6. During any period of a natural disaster (earthquake, fire, flood, etc.) an agency charged with the emergency services support may process emergency orders, but must, within thirty days after the official termination of the disaster, but in no case more than sixty days from the date of the purchase, submit the proper purchasing document and justification to PD. If, on review by PD, the action was warranted, a Form 42 will be issued to the agency. If PD does not concur with the action, a Form 42 will not be issued and the supplier may have to file a claim with the Board of Control to obtain payment.

#### **D. RESPONSIBILITIES:**

1. The requesting agency head is responsible for ensuring purchases made under this section meet the definition of an emergency.
2. Procurement Division is responsible for approving the emergency purchase and issuing the Form 42.
3. If the Department of General Services does not concur that the situation warranted an emergency purchase, the supplier may be required to file a claim with The Board of Control to obtain payment.

#### **E. APPENDICES:**

None

#### **F. AUTHORITY AND REFERENCES:**

1. Statutory: Public Contract Code Section 10302  
Public Contract Code Section 12102  
Public Contract Code Section 1102
2. Administrative: None
3. Procedural: State Contracting Manual

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